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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.      | CONFIRMATION NO. |
|--|-------------|----------------------|--------------------------|------------------|
| 10/719,337   | 11/22/2003  | Jari Tapio Vikberg   | P16748-US2               | 2613             |
| 27045 7590 02/13/2007<br>ERICSSON INC.<br>6300 LEGACY DRIVE<br>M/S EVR 1-C-11<br>PLANO, TX 75024 |             |                      | EXAMINER<br>LY, ANH VU H |                  |
|  |             |                      | ART UNIT                 | PAPER NUMBER     |
|  |             |                      | 2616                     |                  |
| SHORTENED STATUTORY PERIOD OF RESPONSE   |             | MAIL DATE            | DELIVERY MODE            |                  |
| 3 MONTHS   |             | 02/13/2007           | PAPER                    |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/719,337 | <b>Applicant(s)</b><br>VIKBERG ET AL. |  |
|                              | <b>Examiner</b><br>Anh-Vu H. Ly      | <b>Art Unit</b><br>2616               |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 47-68 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 47-68 is/are rejected.
- 7) ☒ Claim(s) 47-68 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 November 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>March 8, 2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 65-67 recited in page 9 of the preliminary amendment filed November 22, 2003 have been renumbered as 66-68 since another claim 65 already recited in page 8 of the preliminary amendment.

2. Claims 47-68 are objected to because of the following informalities:

With respect to claim 47, in line 13, replace “a plurality of paths” with --the plurality of paths-- and in line 15, replace “a broadband network” with --the broadband network--.

With respect to claim 55, in line 3, “said measurements” lacks antecedent basis.

With respect to claim 57, in line 3, insert --each-- before “having broadband switching fabric” and in line 12, replace “a plurality of paths” with --the plurality of paths--.

With respect to claim 61, in line 1, replace “a call control node” with --A call control node--. In line 11, replace “a plurality of paths” with --the plurality of paths-- and in line 13, replace “a broadband network” with --the broadband network--.

With respect to claim 62, in line 1, replace “Claim 61 comprises” with --Claim 61, wherein the call control node is--.

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With respect to claim 67, Examiner believes claim 67 is now depended upon renumbered claim 66 since renumbered claim 66 recites quality data.

With respect to claim 68, Examiner believes claim 68 is now depended upon renumbered claim 67.

Other pending claims are objected to for the reasons as set forth in objected independent claims 47, 57, and 61. Appropriate correction is required.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 47-68 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2, 6-7, 9-10, 13, 15, and 16 of U.S. Patent No. 6,744,768 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because US Patent '768 claims 1-2, 6-7, 9-10, 13, 15, and 16 recite a system

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having a plurality of connection control nodes having broadband switching fabric. A data structure containing bandwidth data identifying an amount of available bandwidth on at least one of a plurality of paths, each of the plurality of paths being two of the plurality of connection control nodes and the data structure further includes quality data related to the quality of packet transmissions on at least one of the plurality of paths within the broadband network. This implies that, the broadband network connects to a plurality of connection control nodes since connection control nodes being connected by a path and includes a plurality of paths. Further, each path includes at least a link for connecting two of the plurality of connection control nodes. The system includes at least one call control node having switching intelligence and narrowband switching fabric, wherein the plurality of connection control nodes being controlled by at least one call control node. This implies that the connection control nodes and the narrowband switching fabric are controlled by the switching intelligence for providing call control to an incoming call. The system includes means for selecting at least one of the paths for switching an incoming call through a broadband network interconnecting the plurality of connection control nodes using the bandwidth data. Herein, since each connection control nodes includes a broadband switching fabric therefore, means for selecting a path for switching an incoming call also utilize broadband switching fabric of the connection control node and bandwidth data. The system, herein, includes broadband switching fabric and narrowband switching fabric. Therefore, the system is a hybrid system. Further, the system includes means for calculating, allocating, updating bandwidth in a broadband network. Therefore, the system is for monitoring bandwidth allocation in a broadband network. It would have been obvious to one having

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ordinary skill in the art at the time the invention was made to modify the claimed language to derive the claimed invention.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Scott et al (US Patent No. 7,009,982 B2) discloses combining narrowband applications with broadband transport.

Bi et al (US Patent No. 7,136,378 B2) discloses secure ATM-based distributed virtual tandem switching system and method.

Medhat et al (US Patent No. 6,314,103 B1) discloses system and method for allocating bandwidth for a call.

Girard (US Pub 2002/0176404 A1) discloses distributed edge switching system for voice-over-packet multi-service network.

Goyal et al (US Patent No. 6,999,474 B1) discloses method for bandwidth management by resizing pipes.

Mauger et al (US Patent No. 6,917,586 B1) discloses communication system architecture.

Cable et al (US Pub 2003/0193957 A1) discloses system and method for establishing a communication connection.

Breuckheimer et al (US Patent No. 6,496,508 B1) discloses communication system architecture.

Bosloy et al (US Patent No. 6,714,544 B1) discloses method and apparatus for proxied signaling of an end-to-end connection across a connection-oriented network.

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Scott et al (US Pub 2003/0099192 A1) discloses method and system for a switched virtual circuit with virtual termination.

Furtenback et al (US Patent No. 7,054,305 B2) discloses combining narrowband applications with broadband transport.

Furtenback et al (US Patent No. 6,775,266 B1) discloses narrowband applications using ATM switching and transport.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh-Vu H. Ly whose telephone number is 571-272-3175. The examiner can normally be reached on Monday-Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to be 'S. Ly', with a long horizontal line extending to the right.

avl